

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JUAN LIZCANO,	§	
Petitioner,	§	
	§	
v.	§	No. 3:16-cv-01008-B-BN
	§	
BOBBY LUMPKIN,	§	
Director, Texas Department	§	
of Criminal Justice,	§	
Correctional Institutions Division,	§	
Respondent.	§	

**RESPONDENT LUMPKIN'S UNOPPOSED MOTION  
FOR EXTENSION OF TIME**

This is a federal habeas corpus proceeding brought by Petitioner Juan Lizcano, pursuant to 28 U.S.C. §§ 2241 & 2254. Lizcano was previously a death-sentenced inmate, but he received habeas relief in state court regarding punishment and was commuted to life imprisonment. Lizcano, however, challenges his conviction, and on January 5, 2021, he filed an amended federal habeas petition in this Court. ECF No. 57. By order of this Court, ECF No. 56, the Director's answer is due by April 5, 2021. For the following reasons, the Director respectfully requests an additional sixty days, or until June 4, 2021, to file an answer.

This request is due to the undersigned attorney's previous and future commitments in other cases. The undersigned counsel is the acting attorney pro tem in *State v. Michael Dean Gonzales*, No. D-23,730 (358th Jud. Dist. Ct., Ector County, Tex.). This is a capital murder case where all habeas proceedings have concluded, but the parties are involved in last-minute litigation. On December 21, 2020,

Gonzales filed a motion for DNA testing pursuant to Chapter 64 of the Texas Code of Criminal Procedure. The undersigned attorney spent January and the majority of February tracking down the evidence Gonzales wants tested and preparing a response. The undersigned filed his response on February 22, 2021. During this same time period, Gonzales filed a motion to terminate the undersigned attorney pro tem and a motion to defer the setting of an execution date, both of which required a response from the undersigned. And because the trial court granted the latter motion, the undersigned filed a motion for reconsideration of this decision.

Since late February, the undersigned has been working on an answer to a 170-page federal petition in another capital case, *Micah Brown v. Lumpkin*, No. 3:19-cv-02301-L-BN (N.D. Tex.). This is a case on second extension with a due date of May 9, 2021.

As further justification for this extension, on April 14, 2021, the undersigned has a Zoom hearing before the trial court in the Gonzales case regarding Gonzales's motion to terminate the attorney pro tem. The undersigned also has an opposition to an application for a certificate of appealability (COA) due in the Fifth Circuit on April 28, 2021, in *Garland Harper v. Lumpkin*, No. 20-70022.

For these reasons, the undersigned requests sixty additional days to draft and file a responsive pleading to Lizcano's petition. This motion is not requested to delay this proceeding. Counsel for Lizcano, Stephanie Sivinski, has advised the undersigned that neither she nor co-counsel are opposed to this requested extension.

## CONCLUSION

The Director moves this Court to extend the time for filing a response to Lizcano's habeas petition up to and including June 4, 2021.

Respectfully submitted,

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Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

JOSH RENO  
Deputy Attorney General  
For Criminal Justice

EDWARD L. MARSHALL  
Chief, Criminal Appeals Division

/s/ Erich Dryden  
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ATTORNEYS FOR RESPONDENT

### **CERTIFICATE OF CONFERENCE**

I hereby certify that counsel for Petitioner, Stephanie Sivinski, has been contacted, and she stated that neither she nor co-counsel are opposed to the requested extension.

/s/ Erich Dryden  
ERICH DRYDEN  
Assistant Attorney General

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Unopposed Motion for Extension of Time has been served electronically to Debra McComas, Stephanie Sivinski, and Shawn Nolan on April 1, 2021.

/s/ Erich Dryden  
ERICH DRYDEN  
Assistant Attorney General